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PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : United States Patent Application no.
10/762,370

FOR : VARIABLE FUNCTION PERSON
TRANSPORTATION SYSTEM(S)

APPLICANT : BHM MEDICAL INC.

FILED : January 23, 2004

EXAMINER : MCCARRY JR., Robert J.

GROUP ART UNIT : 3617

ATTORNEY DOCKET NO : 06267-030

Montreal, Quebec, Canada
April 27, 2005

RESPONSE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The present is in response to the Examiner's report of March 23, 2005.

The examiner has maintained the rejection of claims 1 to 10 and 15 to 17 under 37 U.S.C. sec. 102(b) as being anticipated by U.S. 6,085,368 (Robert et al).

In response to the applicants previous arguments, the examiner states (on page 3 of the office action) that "The prior art of Robert et al clearly discloses a carriage system for moving an individual as shown in figures 9 – 12." The examiner also states (on page 2 of the office action) that "Attached to the carriage 94 is a winch assembly 1 for raising and lowering the person."

In relation to the teachings of Robert et al, the applicant submits that:

- **the winch assembly 1 is described as comprising a flexible elongated support member 10** (see figures 1, 4, 6, 8, 12 and 14 of Robert et al, as well as column 5 lines 44 to 48 thereof, and in particular figures 12 and 14);
- **the elongated support member 10 is described as being connected to the cylindrical body 9 of a reel component 7 for being wound up or unwound from the reel component 7** (see figures 1, 3, 3a, and 5 of Robert et al, as well as column 5 lines 44 to 48 thereof);
- **the reel component 7 is described as having peripheral worm gear teeth for meshing with a worm drive gear 30** (see figures 3, 4 and 8 of Robert et al, as well as column 5 line 65 to column 6 line 8 thereof); and
- **the winch assembly 1 is described as including an electric motor 33** (see figures 2, 3, 3a, 4, 5, 6, and 8 of Robert et al, as well as column 6 lines 9 to 12);
but
- **the electric motor 33 is described as having a drive shaft which is (e.g. indirectly) coupled to one end of a worm gear drive shaft 44 which in turn is coupled to the worm drive gear 30 mentioned above** (see figure 3, 4, 7 and 8 of Robert et al, as well as column 6 lines 18 to 24 and 32 to 48 thereof).

In other words, the motor 33 of Robert et al **is described as being associated with the reel component 7** of the winch assembly 1 in order to facilitate the function of the winch assembly which is to **lower and raise** a person by exploiting **said motor 33** (see figure 17 of Robert et al as well as column 10 lines 12 to 25).

Thus, it is stated at column 1 lines 38 to 44 of Robert et al that a winch assembly, inter alia comprises:

a clutch coupling component configured to be able to couple and de-couple said electric motor and said reel component when said motor is in a non-energised state such that

when said electric motor and said reel component are coupled and said motor is in an energised state said reel component may be rotated by said motor and

when said electric motor and said reel component are de-coupled said flexible elongated support member may be manually paid out (i.e. unwound) from said reel component; in a non-energised state no electrical power is being delivered to the motor so its shaft is not turning; in an energised state electrical power is being delivered to the motor for turning it's shaft.

As mentioned above, in accordance with the present invention the winch assembly may be configured such that when the electric motor and said reel component are coupled and the motor is in an energised state the reel component may be rotated by said motor. The winch assembly (i.e. the motor, the clutch coupling component, etc.) may, for example, be appropriately configured in any suitable (known) manner such that the motor induced rotation of the reel component in one direction leads to the flexible elongated support member being wound up onto the reel component whereas motor induced rotation of the reel component in the opposite direction leads to the flexible elongated support member being unwound or paid out from the reel component.

(emphasis added)

.....

It is also stated at column 2 lines 4 to 11 of Robert et al (which is referred to by the examiner on page 2 of the office action – see below) that:

The clutch coupling component may take any desired or necessary configuration keeping in mind its intended purpose, i.e. to be able to couple and de-couple the electric motor and the reel component. The clutch component may for example comprise a pair of gear elements which may as desired be engaged or disengaged as the case may be. The gear elements may take any desired or necessary form keeping the above in mind.

(underlining added)

The applicant further submits that the carriages shown in figures 9, 10 and 11 of Robert et al are described as being **manually** displaceable trolleys or carriages (see column 8 line 52 to column 9 line 9 of Robert et al; and in particular, see column 8

lines 65 to 67 and column 9 lines 7 to 9 which refer to **manual** displacement of a trolley along a track).

Thus, the carriage 94 shown in figures 9 and 10 of Robert et al is **not described** as being associated with a drive motor of any kind whatsoever. On the contrary, as shown, the carriage 94 has a downwardly extending projection 98; it is this projection 98 which is used for attaching the carriage 94 to the winch assembly 1 (see also analogous element 115 in figure 11 of Robert et al, and analogous element 142 in figure 15 of Robert et al).

Additionally, Robert et al, states the following, at column 9 lines 19 to 28:

..... Referring to the FIGS. 12 and 13, the support structure of a winch assembly may for example have outwardly extending projecting 120 which may be fixed to a downwardly extending carriage projection in any suitable releasable (e.g. by a nut/bolt attachment system) or permanent (e.g. welding) manner; the trolley is shown as being engaged in a track 120a attached to a ceiling 120b. Referring to FIG. 13 in this case the elongated member 10 alone may be unwound downwardly away from the main body 121 of the winch assembly which is more or less fixed in place.

Notwithstanding the above, the examiner, in support of the conclusion, that the subject matter of claims 1 to 10 and 15 to 17 is anticipated, has stated on page 2 of the office action (the portions in bold below) that

- a) **attached to the carriage 94 is an electric motor 33 for powering the carriage 94, and a clutch assembly** *(the applicant submits that this is **incorrect** – as mentioned above, the motor 33 is coupled to the reel component 7 for powering the reel component 7, **not** a carriage);*
- b) **The clutch assembly which is not numbered but described in column 2, lines 4 – 11, allows the carriage to engage or disengage the electric motor 33** *(the applicant submits that this is **incorrect** – as mentioned above, the clutch is described in Robert et al as being present for coupling and de-coupling the motor 33 and the reel component 7 **not** the motor 33 and a carriage);*
- c) **This allows the carriage 94 to be moved by the motor 33 or manually** *(the applicant submits that this is **incorrect** – as mentioned above, the*

*clutch is described in Robert et al as being connected to the reel component 7 and **not** to a carriage);*

- d) **The electric motor 33 drives a worm drive shaft 44 for moving the carriage 94,** *(the applicant submits that this is **incorrect** – as mentioned above, the worm drive shaft 44 is described in Robert et al as being coupled to the motor 33 for inducing rotation of the reel component 7 for winding up or unwinding the flexible elongated support member 10 about the reel component 7 and **not** for moving a carriage).*

Accordingly, the applicant submits that the subject matter of claims 1 to 10 and 15 to 17 is patentably distinct from the teachings of Robert et al.

The examiner has also rejected claims 18 to 25 under under 37 U.S.C. sec. 103 as being obvious over U.S. 6,085,368 (Robert et al) in light of U.S. 5,809,591 (Capaldi et al).

In light of the above comments with respect to Robert et al, the applicant submits that even if Robert et al and Capaldi et al are read together, the subject matter of claims 18 to 25 is patentably distinct from the teachings of these two references.

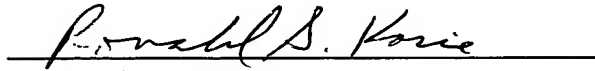
If any extension of time is necessary, the United States Patent and Trademark Office us hereby petitioned for such an extension and may charge any necessary fees to our **Deposit Account no. 02-3980.**

If any fee, **whatsoever**, with respect to the present application is due, the United States Patent and Trademark Office is in any event hereby authorized to charge or credit such amount to our **Deposit Account no. 02-3980.**

In light of the foregoing amendments and comments, favourable reconsideration is respectfully requested.

Respectfully submitted,

BKP LLP (Formerly BROUILLETTE KOSIE PRINCE)

A handwritten signature in cursive script, reading "Ronald S. Kosie", is written over a horizontal line.

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